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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/901,988	07/10/2001	Clive Tang	59864.00660	7923
32294	7590	06/02/2006	EXAMINER	
SQUIRE, SANDERS & DEMPSEY L.L.P.			GHEBRETINSAE, TEMESGHEN	
14TH FLOOR			ART UNIT	
8000 TOWERS CRESCENT			PAPER NUMBER	
TYSONS CORNER, VA 22182			2611	

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/901,988	TANG, CLIVE	
	Examiner	Art Unit	
	Temesghen Ghebretinsae	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 13-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 13-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. It would be of great assistance to the Office if all incoming papers pertaining to a filed application carried the following items:

1. Application number (checked for accuracy, including series code and serial no.).
2. Group art unit number (copied from most recent Office communication).
3. Filing date.
4. Name of the examiner who prepared the most recent Office action.
5. Title of invention.
6. Confirmation number (See MPEP § 503).

Response to Arguments

2. Applicant's arguments, see page 2-7, filed 3/21/06, with respect to the rejection(s) of claim(s) 1-11, 13-21 under final rejection have been fully considered and are persuasive. Therefore, **the final rejection has been withdrawn**. However, upon further consideration, a new ground(s) of rejection is made in view of Warner (6,498,510) and Le-Ngoc (6,714,551).

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 21 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Although the claim is an apparatus claim, the claim is seeking protection to the claimed algorithm (linear reward inaction learning algorithm). There is no practical application being claimed. The word "satisfy performance criteria" does not make the claimed invention statutory.

Claim Objections

Art Unit: 2611

4. Claim 21 is objected to because of the following informalities: the (.) after the word channel in line 2 should be deleted. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 14, "the inputs" lack clear antecedent basis.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-11, 13-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Le-Ngoc (6,714,551).
9. Le-Ngoc discloses an apparatus for comprising a calculator (406,402,440) configured to select the at least first switched threshold (see fig.4 and 6). The selected one of the first switched threshold by the calculator maximizes the first performance criteria while satisfying the second performance criteria as claimed in claim 2. The

received indications comprises an error indicia as claimed in claim 3; the error indicia to which the calculator is coupled to receive comprises a bit (or frame) error rate indication as claimed in claim 4; (see abstract,col.7, lines 40-54). The data transmitted by the first communication station is transmitted to a second communication station and the modulation parameter is selected prior to transmission of the subsequent data from by the first communication station and the selected modulation parameter comprises an encoding rate and modulation type as claimed in claims 5-11,16-18.(see col. 7, line 55 col. 8, line 16 ; col. 9, line 66- col. 10, line 33; and claim 6)

10. As per claims 13-15,19-21. Le-Ngoc does not call his algorithm LRI but does have an algorithm which functions the same as the present claimed invention which provides adaptive switching threshold to be used in the selection of modulation parameter, such as modulation type and encoding level; and the calculator (406,402,404) do receive indicia representative of an error rate indicia and through put indicia as claimed in claim 13-15,19-21.(see abstract, col.2, lines 27-37 and col. 7 lines 40-54)

11. Claims 1 –2 are rejected under 35 U.S.C. 102(e) as being anticipated by Warner (6,498,510).

Warner discloses an adaptive threshold logic circuit adapted to receive indications of selected communication indicia associated with communication characteristics of the communication channel for dynamically selecting at least first switching threshold (see abstract, fig. 4 and claim 1).

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Temesghen Ghebretinsae whose telephone number is 571-272-3017. The examiner can normally be reached on Monday-Friday from 8 to 6. The examiner can also be reached on alternate .

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel, can be reached on 571-272-2988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Temesghen Ghebretinsae
Primary Examiner
Art Unit 2611

TEMESGHEN GHEBRETINSAE
PRIMARY EXAMINER
5/3/2010